

**IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF VIRGINIA**

BAD RIVER BAND OF THE LAKE SUPERIOR
TRIBE OF CHIPPEWA INDIANS OF THE BAD
RIVER RESERVATION, *Plaintiff*,

v.

ENBRIDGE ENERGY COMPANY, INC., and
ENBRIDGE ENERGY, LP, *Defendants*.

ENBRIDGE ENERGY, LP, *Counter-Plaintiff*,

v.

BAD RIVER BAND OF THE LAKE SUPERIOR
TRIBE OF CHIPPEWA INDIANS OF THE BAD
RIVER RESERVATION and NAOMI TILLISON,
in her official capacity, *Counter-Defendants*.

Misc. Action No. ____

(Civil Action No. 3:19-cv-00602,
Pending in the United States District
Court for the Western District of
Wisconsin before Judge William M.
Conley)

**ENBRIDGE ENERGY, LP'S MOTION TO COMPEL
NATIONAL WILDLIFE FEDERATION TO COMPLY WITH RULE 45 SUBPOENA
FOR DOCUMENTS**

Pursuant to Federal Rules of Civil Procedure 26, 37, and 45, Defendant/Counterclaimant Enbridge Energy, Limited Partnership ("Enbridge") moves this Court for an order compelling non-party National Wildlife Federation ("NWF") to fully and completely respond to Enbridge's subpoena served on February 18, 2020 and to produce all responsive, non-privileged documents.

For the reasons set forth more fully in the accompanying memorandum in support of this Motion, Enbridge requests this Court to:

1. Grant Enbridge's Motion to Compel;
2. Compel NWF to produce all communications responsive to Enbridge's subpoena within eleven (11) days of the date of the Court's Order; and/or
3. Compel NWF to produce a privilege log for all documents for which a valid claim

of privilege exists within eleven (11) days of the date of the Court's Order, without waiver of any or all of Enbridge's rights to challenge any entries on that log; and

4. Order such further relief as this Court deems appropriate.

CERTIFICATE OF COMPLIANCE WITH LOCAL RULE 37(E)

Undersigned counsel hereby certify that they have consulted with opposing counsel and have made a good faith effort to resolve the discovery matters at issue. Specifically, undersigned counsel has held numerous phone calls with NWF's counsel, including most recently on Friday, December 18, 2020, and subsequently exchanged follow-up emails on January 12, 15, 21, 22, 25, and 27, 2021, and on February 4, 5, 10, 12, 16, and 19, 2021, as indicated in Exhibit E. Enbridge agreed to narrow the subpoena, but the parties could not reach agreement on the issues identified in this Motion. If the parties reach an agreement to resolve any remaining issues in this Motion, Enbridge will promptly bring such agreement to the Court's attention.

Dated: February 22, 2021

Respectfully Submitted,

/s/ Nicholas M. DePalma

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CERTIFICATE OF SERVICE

I certify that on February 22, 2021 I served the foregoing document on the counsel below
via e-mail and using the Court's ECF system, and, via e-mail to:

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